

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 53079

Petitioner:

**CHARLES R. CUCHIARA JR. & SANDRA M.
CUCHIARA,**

v.

Respondent:

**JEFFERSON COUNTY BOARD OF
EQUALIZATION.**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on April 13, 2010, Debra A. Baumbach and Louesa Maricle presiding. Charles R. Cuchiara, Jr. appeared pro se for Petitioners. Respondent was represented by Writer Mott, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**479 Crawford Street Golden, Colorado
(Jefferson County Schedule No. 413353)**

The subject property is a single family residence that was built in 1994 on a 0.410-acre site in the Tripp Ranch residential subdivision. The 2-story home is wood frame and brick construction containing 3,071 square feet of living area plus a 1,257 square-foot walkout basement. It has 4 bedrooms, 3½ bathrooms (two are 3-fixture baths), a fireplace, a forced air gas furnace system, and central air conditioning. The property has a 725 square-foot attached 3-car garage and outdoor wood decks. The rear of the property is adjacent to Jefferson County open space.

Respondent assigned a value of \$512,200.00 for tax year 2009. Petitioners are requesting a value of \$460,000.00.

Petitioners contend that Respondent has used comparables that are significantly smaller in size than the subject property and different in design. To compare them to the subject, Respondent had to make such large adjustments to the sales that the results are unreliable. Secondly, Petitioners contend that the problems with Respondent's sales analysis resulted in an inequity in the value assigned to the subject compared to similar properties.

Petitioners presented a market (sales comparison) approach to value including three comparable sales ranging in price from \$432,000.00 to \$510,000.00 and in size from 3,036 to 3,142 square feet. On a per square foot basis, the sale prices ranged from \$137.49 to \$167.98. At Petitioners' request, the Jefferson County Assessor's Office produced an adjustment grid for these three properties relative to the subject. After adjustments were made for market conditions and physical characteristics, the sale prices ranged from \$455,600.00 to \$460,500.00, and from \$147.36 to \$150.07 per square foot. The value conclusion using the market approach was \$462,300.00. Petitioners' adjustment grid, prepared by the Jefferson County Assessor's Office using Petitioners' comparable sales, did not include an adjustment for the subject's location next to open space.

Mr. Cuchiara testified there are only two other homes in the Tripp Ranch subdivision similar to the subject in size. The others are all smaller homes. Although the comparable sales presented by Petitioners are not within the Tripp Ranch subdivision, all are located west of Highway 93 in Golden, similar in age, and more similar to the subject in size than those used by Respondent. Petitioners' sales are all located in Economic Area 6, the same economic area assigned by Respondent to the subject property. Mr. Cuchiara testified that for these reasons, the three sales presented by him are valid comparables for the subject property and require lower adjustments than the sales used by Respondent.

Petitioners' secondary equalization argument compares the subject property to two houses on the same street that are similar in size and quality. The assigned values for the two properties cited are both lower than the value assigned to the subject. Mr. Cuchiara testified that the only appreciable difference between the three houses is that one of the assessment comparables has a partially finished basement. The subject and the third property do not. Despite this superior characteristic, the residence with the partially finished basement has an assigned value that is lower than the value for the subject property. In addition, Petitioners contend that all three houses are overvalued relative to the three comparable sales used in his market approach.

Though Petitioners' equalization argument uses houses of generally similar size and age located on the same street, the two properties compared to the subject have significantly smaller sites that Petitioners do not appear to have considered. Also, because Petitioners contend that the assessment comparable properties are also overvalued, the Board concludes that insufficient support was provided for the Board to give weight to Petitioners' equalization argument.

Ms. Michelle Goltart, a Certified Residential Appraiser with the Jefferson County Assessor's Office testified as witness for Respondent. Ms. Goltart completed an exterior inspection of the subject property. The witness presented four comparable sales ranging in sale price from \$405,000.00 to \$505,000.00 and in size from 2,170 to 2,416 square feet, excluding basement and walkout basement square footage. On a per square foot basis, the sale prices ranged from \$167.63 to \$229.02. The sales are all located in the same subdivision as the subject. Ms. Goltart testified that

though these comparables are smaller homes than the subject, it was her opinion that sales in the same subdivision by the same builder were the most relevant. After adjustments were made for market conditions and physical characteristics, the sale prices ranged from \$467,635.00 to \$613,800.00, and from \$193.56 to \$278.37 per square foot. Ms. Goltart concluded to a value for the subject property of \$529,600.00.

Respondent's witness used an adjustment of 10% for the open space characteristic based on advice from a land appraiser within the Jefferson County Assessor's Office. The Board agrees with Respondent that the subject property is adjacent to open space and that an adjustment might be appropriate. However, Respondent's witness did not provide market evidence to support an open space adjustment or the 10% figure used, so the Board does not have data to rely on to support the magnitude of that adjustment. Also, Respondent's witness did not make an open space adjustment to a sale that faces open space because it is separated from it by a residential street. The Board is not convinced that the separation by a neighborhood street is a clear enough distinction to warrant an adjustment, or if the adjustment should be as much as a sale that is not close to open space at all.

The Board notes that after adjustments, Respondent's comparable sales indicated a wider range of values than the price range before the adjustments. Also, the total adjustments made to the sales ranged from \$46,800.00 to \$108,800.00, equivalent to net adjustments of approximately 11% to 22%.

Petitioners presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was incorrect. Petitioners were able to demonstrate that using sales of homes closer to the subject property in size, required smaller overall adjustments than the smaller homes used by Respondent. Though Petitioners' sales were not in the same subdivision, they were located in the same economic area and should reasonably have been considered. Even if Petitioners' market analysis had included adjustments for the subject's location next to open space, where appropriate, the Board concludes that the overall magnitude of the adjustments made would have been smaller than Respondent's market analysis.

The Board relies on Petitioners' Sale 3 with an adjusted price of \$470,800.00 and Respondent's Sale 2 with an adjusted price of \$478,800.00. Neither of these sales required adjustment for the open space characteristic. Also, Respondent's Sale 2 had the lowest overall adjustment relative to the other sales presented by Respondent. The Board concludes that the 2009 actual value of the subject property should be reduced to \$475,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$475,000.00.

The Jefferson County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 26th day of May 2010.

BOARD OF ASSESSMENT APPEALS

Debra A. Baumbach

Debra A. Baumbach

Louesa Maricle

Louesa Maricle

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Heather Flannery

Heather Flannery

